

REMARKS

This amendment is believed to be fully responsive to this office action of April 19, 2004. It is requested that matters as to form that have not been addressed in this response be held in abeyance until allowable subject matter is indicated. Reconsideration, further examination, entry of the above amendments, and allowance is respectfully requested in view of the above amendments which address the points in the Examiner's as follows:

Claim Rejections -35 U.S.C. § 102

Claims 1-3, 5-7, 9-11 were rejected under 35 U.S.C. 102(e) as being anticipated by US 6252996 to Putnam.

As applied to claim 5, it was argued that Putnam discloses a method for creating a hand paintable panel with a set of indicia for guiding a user in painting over the panel to create a painted image (abstract), comprising:

using the programmable computer to assign color palette values to the pixel locations (col. 6 line 63-col. 7 line 2); and printing (converting), under control of the programmable computer, indicia (fig. 2b, 136 (1 or 2)) representing the color values on the pane, so that a user paints over the indicia, using paints assigned to the indicia (1 or 2) to create a hand-painted

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image on the panel (col. 8 lines 5-20).

In response to the examiner's arguments, the applicant points out that Putnam is a program that tries to make paint by numbers kits that resemble the canvases supplied with the well-known paint by numbers kits. The disclosed and claimed invention, on the other hand, uses only the numbers as a guide, and teaches boundaries are not needed provided that the number placement and size (or shape, or perhaps even color) of font are manipulated to provide information on the brush stroke or size of the color area. Putnam does not teach or suggest this, and in fact teaches away from this approach. As illustrated on FIG. 7 and 8C of the disclosed invention, the claimed process will place two of the same numbers next to one another in order show the placement of the desired color with an undefined perimeter or shape. The user follows the small, tightly positioned indicia in locations where small brush strokes are to be used, allowing the tight placement of the indicia, without printed boundaries, to guide the user in generating the image. This is not the same invention as Putnam, and thus Putnam does not anticipate the disclosed and claimed invention.

As to claim 6, it was argued that Putnam further discloses determining the presence of a group pixels with similar adjacent color, defining a region generally coincident to the group of

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pixels and printing a single indicia at a single location within region generally coincident to the contiguous group of pixels with similar color (fig. 2b and 3, col. 8 lines 5-44, col. 9 lines 50-59). However, Putnam uses these steps in the process of generating a boundary for a color area and then printing a boundary area. The disclosed and claimed invention uses indicia alone to guide the placement of the color on the item to be painted or location where the image is to be transferred. This is not the same invention as Putnam, and thus Putnam does not anticipate the disclosed and claimed invention.

As to claim 7, it was argued that Putnam further discloses comparing the color associated with the pixel locations (fig. 4, 164-166, col. 9 lines 37-48), determining a number of contiguous pixels location with similar color (fig. 4, 170, col. 9 lines 50-63), establishing a criteria for assigning a single character of indicia (1 or 2) for the area of contiguous pixel location depend on the variation of color between adjacent pixels. Again, Putnam is using these pixel locations to create a boundary that is to be printed on the final canvas. This is not the same as using the numbers themselves to guide the painter.

As to claim 1-3, it was argued that the limitations were addressed in the arguments with regard to claim 5-7. As explained

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above, Putnam is a system that produces a canvas that is the same as the well-known paint by number kit, whereas the disclosed invention teaches a method that abolishes the use of boundaries. Accordingly Putnam does not anticipate the disclosed and claimed invention.

As to claim 9, it was argued that Putnam discloses selecting contiguous pixel locations of similar color values and assigning a single palette value (col. 6 line 53-col. 7 line 2) to an area covered by the contiguous pixels locations (col. 8 lines 5-20, col. 9 line 50-col. 10 line 27). Again, Putnam uses these steps to create a boundary, which is not used in the disclosed and claimed invention.

As to claim 10-11, the examiner argued that the limitations were addressed with regard to claim 5-7. As explained above, Putnam is a system that produces a canvas that is the same as the well-known paint by number kit, whereas the disclosed invention teaches a method that abolishes the use of boundaries. Accordingly Putnam does not anticipate the disclosed and claimed invention.

Claim Rejections - 35 U.S.C. § 103

Claims 4, 8, and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Putnam.

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In support of this position as to claims 4, 8, and 12, it was admitted that Putnam does not explicitly mention assigning font size to the color value in font size corresponding to the brush size. Since Putnam did not mention the use of font size to provide additional information to the user, such as brush size or stroke, the examiner took Official Notice that this feature is notoriously well known in the art. The examiner's rejection on this basis is respectfully traversed. There is no evidence on record of that the use of font size has ever been used to indicate brush stroke or size. This is particularly in an invention such as the disclosed method, which does not use boundaries. The use of official notice is inappropriate in cases such as this one, where the facts asserted are not capable of instant and unquestionable demonstration as being well-known. See MPEP 2144.03.

Still further it was argued that it would have been obvious to one having ordinary skill in the art at the time the invention was made to use proper brush size related to the font size in the method of Putnam in order to obtain the better paint effects while the user paints the picture by hand. Again, this is unsupported. The disclosed system is designed for helping amateur, unskilled individuals create a painting that looks like

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a skilled artist created it. Accordingly, it is a system that aids the user in selecting an appropriate brush. This is not taught or suggested by Putnam and is not appropriately based on Official Notice.

The end painting produced with the disclosed invention is made up of areas that have been painted by the end user, using his or her own estimates of how far beyond the printed the individual brush strokes and color should extend before it encroaches on the area that should be covered with the brush stroke indicated by the adjacent indicia. This results in a more natural looking painting, without the structured appearance created by painting kits that depend on printed boundaries.

Accordingly, Putnam alone or in combination with any of the patents of record, do not teach or suggest the claimed invention. In sum, the above references place the pending claims in condition for allowance and advancement to allowance is requested.

CONCLUSION


In view of the above, it is submitted that the applicant has placed this application in condition for allowance. Further examination, abeyance of any remaining informalities, and reconsideration and withdrawal of the rejections and objections raised in the Examiner's Office Action is requested. Moreover, it

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is submitted that the claims are now in condition for allowance, and that allowance of the present application is in order and is also requested.

Should the Examiner deem that any further amendment is desirable to place this application in condition for allowance, the examiner is invited to telephone the undersigned at the number listed below.

Respectfully submitted this 14th day of June, 2004,



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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted by facsimile to the United States Patent and Trademark Office (Fax No. (703) 872-9314) on this 19th day of July, 2004,



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